

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2510 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NAI DEVRAJ CHAMNAJI

Versus

SECRETARY (APPEALS), REVENUE DEPARTMENT

Appearance:

MR BN PATEL for Petitioner

MS SIDDHI TALATI for Respondents No. 1, 2

MR PRANAV G DESAI for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The Collector, Banaskantha, under its order dated 13th May, 1977 granted land admeasuring 13.42 sq. mts. of Survey No.112 at Village Tharad on permanent basis to the petitioner for his business. It is not in dispute that the petitioner is carrying on his business of hair

cutting. Under the impugned order dated 23rd February, 1983 of the Collector Banaskantha, the aforesaid grant of land made in favour of the petitioner came to be rejected. Hence, this special civil application.

3. During the course of arguments it has been given out that this land has been acquired by the State Government for giving the same to the Gujarat State Road Transport Corporation. This Court has protected the petitioner by grant of interim relief, and for all these years, he is carrying on his business on the land in dispute. This Court has suggested to the counsel for the Corporation that looking to the fact that the petitioner is engaged in business of hair cutting and he is a small businessman he should be given some reasonable site at some bus station, but Pranav G. Desai, counsel for the Corporation has submitted that no such site can be given to the petitioner. However, the counsel for the respondents No.1 and 2 have given out that looking to the fact that the petitioner is a small businessman and working on the site for more than 20 years now, he may be given an alternate site to which the counsel for petitioner has fairly conceded. Today the counsel for the parties have given out that the Collector with consent of the petitioner has already recommended for the allotment of alternate site, to the Government and that matter is pending before the State Government. The counsel for the State Government states that this matter shall be decided by the State Government within reasonable time.

4. In view of the subsequent developments which have taken place, the grievance made by the petitioner does not survive at this stage. However, what the counsel for the respondent-State submitted that the petitioner may not vacate the land even after the alternate site is allotted to him but that is only the apprehension as the counsel for the petitioner submitted that on allotment of site the petitioner will vacate the present site within one month. In view of this statement, now nothing more is to be stated on this apprehension of the counsel for the respondents.

5. In the result, this special civil application is disposed of with the direction to the State Government to take the decision on proposals made by the Collector, Banaskantha of allotment of alternate site to the petitioner within a period of three months from the date of receipt of writ of this order. In case the land is allotted to the petitioner then he shall vacate the site in question within one month from the date of getting

possession of the alternate site. In case for any reason the proposals made by the Collector are not acceptable by the State Government then a reasoned order may be passed and copy of the same may be sent to the petitioner by registered post A.D.. In that case, liberty is granted to the petitioner for revival of this special civil application. Till the matter of allotment of alternate site to the petitioner is decided, the interim relief granted by this Court shall continue. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-